



United States Department of the Interior

OFFICE OF THE SECRETARY
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Memorandum

To: Bureau Human Capital Officers
Bureau Human Resources Directors

From: Jennifer A. Ackerman
Director, Office of Human Capital
Deputy Chief Human Capital Officer

Subject: Updated Fair Labor Standards Act Guidance and Standardized Position Descriptions for Supervisory Wildland Fire Management (GS-0456)

Purpose: This memorandum establishes the agency's Fair Labor Standards Act (FLSA) advisory guidance, provides Frequently Asked Questions (FAQs), updated Interpretive Guidance and Standard Position Descriptions (SPDs) for the following DOI SPDs:

Supervisory Wildland Firefighter, GS-0456-08, DX00700

Supervisory Wildland Firefighter, GS-0456-09, DX00800

Supervisory Wildland Firefighter, GS-0456-10, DX00900

Background: A thorough position classification, compensation, and legal analysis was conducted on subject DOI SPDs to determine whether Code 2 Supervisory wildland firefighters classified within the 0456 occupational series who primarily perform fire suppression duties and devote approximately 25% of their work to supervisory duties are exempt from the minimum wage and overtime provisions of the Fair Labor Standards Act of 1938 pursuant to the bona fide executive capacity exemption under 29 U.S.C. Section 213(a)(1). The analysis does not concern any firefighters classified in 0081 occupational series; there has been no decision to establish an alternative work period under Section 7(k) of the Fair Labor Standards Act, 29 U.S.C., Section 207(k), and there is no contention that any other exemption under 29 U.S.C., Section 213 applies.

Policy: Office of Personnel Management (OPM) Title 5, Code of Federal Regulation, Part 551: OPM and DOL regulations explain that an employee's position is presumed to be FLSA nonexempt unless the employing agency correctly determines that the employee clearly meets the requirements of one or more of the exemptions." 5 C.F.R. § 551.202(a). Those regulations also state that an exemption criterion must be narrowly construed to apply only to those employees who are clearly within the terms and spirit of the exemption," 5 C.F.R. § 551.202(b), noting that, if, there is a reasonable doubt as to whether an employee meets the criteria for exemption, the employee will be designated FLSA nonexempt.

Fair Labor Standards Act of 1938, 29 U.S.C. S 213(a)(1): The general rule for executive employees is those whose primary duty is management of the enterprise in which the employee is employed or of a customarily recognized department or subdivision; who customarily and regularly directs the work of two or more other employees, and who has the authority to hire or fire other employees or whose suggestions and recommendations as to the hiring, firing, advancement, promotion, or any other change of status of other employees are given particular weight. DOL further defines “primary duty” to mean “the principal, main, major, or most important duty that the employee performs.” Determination of an employee’s primary duty must be based on ALL the facts in a particular position, with the major emphasis on the character of the employee's job as a whole. Factors to consider when determining the primary duty of an employee include, the relative importance of the exempt duties as compared with other types of duties; the amount of time spent performing exempt work; the employee’s relative freedom from direct supervision; and the relationship between the employee’s salary and the wage paid to other employees for the kind of nonexempt work performed by the employee.

Conclusion: The consideration that an executive employee primarily performing management duties, at a minimum, raises more than reasonable doubts as to whether Code 2 GS-08 and GS-09 first level supervisory wildland firefighters who primarily perform fire suppression duties and devote approximately 25% of their work to supervisory duties are “executive employees” under OPM regulations. Therefore, as there is clearly more than “reasonable doubt as to whether an employee meets the criteria for exemption, OPM regulations require employees to be designated FLSA nonexempt, 5 C.F.R. § 551.202(d).

Both the DOL and OPM regulations clearly indicate that Code 2 first level GS-08 and GS-09 supervisory wildland firefighter positions which perform fire suppression duties and devote approximately 25% of their time performing supervisory duties *do not meet* the criteria to be exempt from the minimum wage and overtime provisions of the FLSA executive exemption under 29 U.S.C. Section 213(a)(1).

Final Agency FLSA Determinations:

Supervisory Wildland Firefighter, GS-0456-08, Non-Exempt

Supervisory Wildland Firefighter, GS-0456-09, Non-Exempt

Supervisory Wildland Firefighter, GS-0456-10, Exempt

The Department’s SPD policy ([PB 20-10](#)) typically requires new DOI SPDs to replace legacy PDs no later than 60 days from the issuance date.

The use of these supervisory SPDs is contingent upon 1) the administrative and managerial duties performed meet the intent of the GSSG for position classification and 2) the official organization chart and subordinate structure thereof meets the agency’s position management

policy requirements, including the minimum of one (1) to four (4) supervisor-to-subordinate employee ratio. The major duties performed by supervisory and subordinate employees must be on a “regular and recurring” basis and may be performed in a continuous, uninterrupted manner, or at recurring intervals.

For more information about the elect-in process for the 0456 series, please refer to [GS-0456 Wildland Fire Management Series Elect-In Process](#).

The official SPDs covered by this Memorandum are:

DX00700	Supervisory Wildland Firefighter	0456-08
DX00800	Supervisory Wildland Firefighter	0456-09
DX00900	Supervisory Wildland Firefighter	0456-10

Official Titles: The U.S. Office of Personnel Management's prescribed official titles are located in Block 18a on the PD cover sheet (HC-08). This title must be entered into the Federal Personnel and Payroll System (FPPS) and be reflected on the incumbent’s SF-50, Notification of Personnel Action. Variations to official titles are not authorized.

Standardized PD Numbering System: Bureaus must use the DOI standardized PD numbering system when using these SPDs for newly established positions and when replacing existing SPDs. The use of a bureau-level numbering system in lieu of a DOI SPD number is not authorized. The DOI SPD number must be entered into FPPS in the position number data field so it prints on the incumbent's SF-50, Notification of Personnel Action. A standardized PD number has been recorded in Block 1 of the HC-08. Modifications to the SPD number are not authorized with the exception of the last two characters as described in PB 20-10.

GS-0456 Interpretive Guidance: Bureaus may refer to the [Wildland Fire Management, GS-0456 Interpretive Guidance for Applying the Position Classification Standard](#) for additional questions for implementation of the SPDs. This document provides supplementary guidance on classification and general use of the GS-0456 series, and has been updated to include guidance on the referenced FLSA determination.

GS-0456 FLSA FAQs: Bureaus may refer to the [Wildland Fire Management FLSA FAQs](#) for additional information regarding FLSA determinations within the GS-0456 Wildland Fire Management occupational series. These FAQs are issued to offer clarity and address inquiries commonly received from the Wildland Fire Management Community.

PD Cover Page: The HC08 Cover Pages have been updated to identify the correct FLSA determinations.

Electronic Library of DOI Standard PDs: An Electronic Library of available DOI SPDs for the GS-0456 series is located on the [Firefighter and Law Enforcement Retirement Team website](#).

Inquiries: Any Department employee or employee representative seeking further information concerning this memorandum may contact their respective SHRO. Bureau Headquarters HR staff may contact [DOI Office of Human Resources@ios.doi.gov](mailto:DOI.Office.of.Human.Resources@ios.doi.gov).